

Evans, Ford, Finlay, Flanagan, Fountain, Franks, Gaines, Hall, Henry, Latimer, Pyle, Rawson, Ruby, Saylor, Sayers, Shelley, Tracy, Word and Mr. President—24.

Nay—Senator Dillard—1.

Senator Fountain offered a protest of himself and other Senators against the decision of the Chair in ruling their protest against the passage of the "election bill," now pending before the Senate, out of order.

The Chair ruled the protest out of order.

Senator Fountain appealed from the decision of the Chair to the Senate, and the Senate sustained the ruling of the Chair by the following vote:

Yeas—Senators Avinger, Ball, Dillard, Dohoney, Evans, Finlay, Henry, Latimer, Pyle, Sayers, Shelley, Swift and Word—13.

Nays—Senators Baker, Ford, Flanagan, Fountain, Franks, Gaines, Hall, Rawson, Randle, Ruby, Saylor and Tracy—12.

On motion of Senator Dohoney, House bill No. 489, "An act to aid in the construction of the Atlantic and Pacific Railroad," was referred to the Committee on Internal Improvements.

On motion, the Senate adjourned.

SENATE CHAMBER, }
AUSTIN, TEXAS, May 9, 1873. }

Senate met pursuant to adjournment. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Gaines, the reading of the journal of yesterday was dispensed with.

Senator Fountain presented the following protest, and asked that it be spread upon the journals of the Senate:

Hon. E. B. Pickett, President of the Senate:

SIR: The undersigned, members of this honorable body, believing that the bill entitled "An act to provide a time for holding general elections in this State," which has passed this Senate, will, if it becomes a law, involve our State in serious confusion as to the tenure of the officers proposed to be elected, as well as to that of the present incumbents. And as we hold that the election held

during the month of November, A. D. 1872, was a general election under the Constitution and laws of this State (see Section 33, Article 3 of the Constitution, and Section 7 of the election act, approved August 15, 1870); and further holding the opinion that the tenure of office of the Senators elected at the said election is for six years, and the tenure of office of the Representatives elected at the said election is for two years (Sections 4 and 8 of Article 3 of the Constitution); and believing, as we do, that it is not within the power of this Legislature, under the Constitution, by enactment, apportionment or otherwise to abridge the tenure of office of the Senators and Representatives so elected by the people. And as we believe that any attempt to abridge the tenure of office of the Senators and Representatives so elected in November last, by the premature election of another Legislature to serve during a portion of the period for which the said Senators and Representatives were elected, will be ruinous to the peace and prosperity of our State, because it will throw our government into confusion, will cause interminable litigation by creating grave doubts as to the legality of all land grants made by this Legislature to aid in the construction of railroads, for the reason that if the election held in November last was not a general election then the amendment to the Constitution, permitting donations of land in aid of internal improvements, has not been constitutionally ratified; and further, believing that if the said bill becomes a law, and an election be held under its provisions we will have two Legislatures in this State at the same time, the one elected under the Constitution and general laws of this State, the other a creature of this Legislature, by special enactment, without authority of the Constitution; and further, that an attempt on the part of the last named body to exercise legislative authority will plunge our State into anarchy, retard progress, immigration, and the material prosperity of our people, and, perhaps, invite Federal interference.

Therefore, disclaiming all intention of reflecting in any manner whatsoever upon the acts or votes of a majority of the members of this Senate who in their wisdom deemed it proper to pass the said bill, according to them the same freedom of thought and liberty of action which we claim as our due; having in view only the welfare of our people and the future peace and prosperity of our

State, believing the act recited to be unconstitutional in its provisions, mischievous and revolutionary in its tendencies; that it will work incalculable injury to the people of this State, we do earnestly but respectfully ask that this, our solemn protest against its passage, be spread upon the journals of the Senate.

(Signed)

A. J. FOUNTAIN,

Senator Thirtieth District.

THOS. H. BAKER,

Senator Twenty-seventh District.

J. G. TRACY,

Senator Fourteenth District.

ED. T. RANDLE,

Senator Fifteenth District.

HENRY RAWSON,

Senator Seventh District.

MATHEW GAINES,

Senator Sixteenth District.

S. W. FORD,

Senator Nineteenth District.

P. W. HALL,

Senator Eighteenth District.

G. T. RUBY,

Senator Twelfth District.

F. G. FRANKS,

Senator Thirteenth District.

W. A. SAYLOR,

Senator Seventeenth District.

Senator Avinger, chairman of the Committee on Counties and County Boundaries, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Counties and County Boundaries, to whom was referred House bill No. 388, "An act providing for an election to permanently locate the county seat of Hill county," have had the same under consideration, and instruct me to report it back, and recommend that it do pass.

H. J. AVINGER, Chairman.

Senator Franks offered the following resolution, which was adopted:

Resolved, That the Finance Committee be and are hereby instructed to embrace in the deficiency appropriation the claim of Thomas Beck, of fifty dollars for services rendered as porter during the Twelfth Legislature.

Senator Shelley introduced a joint resolution proposing an amendment to Section twenty-three of Article twelve, general provisions of the Constitution of the State of Texas. Read first time and referred to the Committee on Constitutional Amendments.

On motion of Senator Swift, the callendar clerk was excused for the day.

Senator Finlay introduced a bill for the relief of sheriffs. Read first time and referred to Judiciary Committee No. 2.

Senator Baker introduced a bill to be entitled "An act to incorporate the San Felipe Irrigation Company." Read first time and referred to the Committee on State Affairs.

Senator Swift, chairman of the Committee on Claims and Accounts, submitted the following reports:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Claims and Accounts, to whom was referred the petition of Wm. M. Cook, have had the same under consideration, and beg leave to report that as the petitioner failed to make the payments to the State in accordance with his contract, he forfeited that portion of the money that he did pay to the State; therefore your committee recommend that the application for relief be not granted.

W. H. SWIFT, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Claims and Accounts, to whom was referred Senate bill No. 337, "An act for the relief of Mrs. Rebecca M. Stroud," have had the same under consideration, and beg leave to report that, while your committee do deeply sympathize with the unfortunate applicant for relief, we do not deem it prudent to establish the precedent of extending relief to all such unfortunates; therefore we recommend that the bill do not pass.

W. H. SWIFT, Chairman.

Senator Dohoney in the chair.

Senate bill No. 307, "An act to reorganize certain judicial districts, and to abolish certain judicial districts therein named," was taken up, and on motion of Senator Ruby the bill was made special order for to-morrow at 4 P. M., and one hundred copies ordered printed.

Senate bill No. 136, "An act to amend article seven hun-

dred and sixty-six of the Penal Code," with amendments to the bill by the House, taken up and the amendments concurred in by the Senate.

House bill No. 185, "An act defining the duties of the Comptroller," with amendments by the Senate, taken up, and the Senate adhered to its amendments.

On motion of Senator Shelley, the President announced the following conference committee to consider the disagreement between the two houses, viz., Senators Shelley, Sayers and Finlay.

Senator Word moved to reconsider the vote taken yesterday on the final passage of Senate bill No. 281, "An act granting pensions to the surviving veterans of the revolution which separated Texas from Mexico." Carried.

Senator Word then moved to amend the bill by striking out section two. Amendment adopted.

Senator Word then moved to amend by striking out section six. Amendment adopted.

Senator Finlay moved to amend section one by inserting after "1836" the words, "including the Meir prisoners and the Santa Fé prisoners." Amendment adopted.

The bill as amended then passed by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dillard, Dohoney, Evans, Finlay, Franks, Hall, Henry, Latimer, Pyle, Rawson, Randle, Ruby, Saylor, Sayers, Shelley, Swift, Tracy, Word and Mr. President—23.

Senator Ruby submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Engrossed Bills have examined the following bills, and find them correctly engrossed, viz.:

Senate bill No. 304, "An act to incorporate the Clinton Bridge Company."

Senate bill No. 247, "An act for the relief of William Simpson."

Senate bill No. 186, "An act for the relief of the heirs of Harrison W. Goyne, deceased."

Senate bill No. 231, "An act for the sale of lands belonging to the common school fund, and the lands set apart to the several State asylums."

Senate bill No. 241, "An act to amend sections thirteen, fourteen, sixteen and seventeen of an act entitled an act to incorporate the town of Palestine, in Anderson county."

Senate bill No. 342, "An act to authorize and require the County Court of Robertson county to retire certain county scrip therein specified, and to issue bonds of said county in lieu thereof."

Senate bill No. 310, "An act to confer additional jurisdiction on the presiding justices of the peace of Lamar and Fannin counties, and to prescribe the powers of the officers of said courts."

G. T. RUBY, for Committee.

The hour having arrived, the Senate resolved itself into a high court of impeachment.

10 o'CLOCK A. M.

Court met pursuant to adjournment, and was opened by the sergeant-at-arms in the prescribed form.

The managers on the part of the House of Representatives, and the defendant in person, and by counsel, were announced, and came within the bar of the Senate, and John C. Robertson resumed his argument.

Mr. Ireland, on behalf of the managers, asked leave to withdraw the additional articles of impeachment for the purpose of amending them.

The court, having retired to consider of the request, returned to the chamber, and Senator Dohoney submitted the following order:

Ordered, That the managers have leave to withdraw the additional articles of impeachment filed on yesterday.

Which the court refused by the following vote:

Yeas—Senators Avinger, Ball, Cole, Dillard, Dohoney, Finlay, Henry, Latimer, Sayers, Shelley, Swift, Word and Mr. President—13.

Nays—Senators Baker, Ford, Flanagan, Fountain, Franks, Gaines, Hall, Pyle, Rawson, Randle, Ruby, Saylor and Tracy—13.

Mr. Bewley, one of the managers on part of the House of Representatives, then proceeded to argue the question of demurrer.

The court adjourned till 10 o'clock to-morrow.

On motion of Senator Cole, the Senate adjourned till 4 o'clock P. M.

AFTERNOON SESSION.

Senate met at 4 o'clock P. M. pursuant to adjournment. Roll called; puorum present.

Unfinished business, viz., Senate bill No. 258, "An act to amend sections seven, ten and twenty of an act entitled an act to incorporate the Tyler Tap Railroad Company, approved December 1, 1871, and to grant land to said company to aid in the construction of its road," with amendments by the House, taken up, and the Senate concurred in the amendments.

Senator Pyle, chairman of the Committee on Contingent Expenses, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Contingent Expenses, having had Senate resolution for the relief of James E. Slater under consideration, report the same back to the Senate and recommend its passage.

W. H. PYLE, Chairman.

A message was received from the House informing the Senate that the House had passed the following bills:

House bill No. 586, "An act to incorporate the San Antonio and Austin Railroad Company."

House bill No. 197, "An act to authorize the county courts of the several counties to keep up and to improve roads and bridges."

House bill No. 853, "An act supplemental to and amendatory of an act entitled an act to reincorporate the city of Corpus Christi."

House bill No. 481, "An act to incorporate the Defiance Hook and Ladder Company No. 1 of the city of Jefferson."

House bill No. 806, "An act to prohibit the sale or giving away of spirituous, vinous, malt or other intoxicating liquors within two miles of certain places therein named."

On motion of Senator Dohoney, House bill No. 35, "An act to authorize parties in certain cases to sue in the district courts for headright certificates and bounty and donation warrants, and to provide for the issuance of such certificates and warrants," was taken up and made the special order for Monday next at 4 o'clock P. M.

Senator Dohoney, chairman of the select committee, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your select committee, to whom was referred Senate bill No. 218, "An act to establish and maintain a system of public free schools in the State of Texas," together with the accompanying message of his Excellency

the Governor, returning the same to the Senate, with his objections thereto, having had the same under careful consideration, are of opinion that the aforesaid objections are not well taken, and instruct me to report the same back, and recommend that the Senate, on reconsideration, do pass the bill, notwithstanding the veto of the Governor.

E. L. DOHONEY, Chairman.

The following message was received from his Excellency the Governor, and on motion of Senator Flanagan, referred to the Committee on State Affairs:

EXECUTIVE OFFICE, STATE OF TEXAS,
AUSTIN, May 8, 1873.

To the Honorable Senate and House of Representatives of the State of Texas:

GENTLEMEN: In my message at the opening of your session, I called your attention to the fact that by a decision of the courts, the fees collected from shipping to support the quarantine had been cut off, and I asked an appropriation for its support. Again, in my estimate sent to your houses on January 23, I included the amount of an appropriation thought necessary for this purpose. Nothing having been done by the houses on the subject, and the time having now arrived when the quarantine should be established, I have issued my proclamation therefor to commence on the fifteenth instant, but it cannot be enforced without an appropriation.

I am informed that the yellow fever is very severe at some of the ports on the Southern coast of America, and may be brought at any time to the ports of Texas. The quarantine has kept it off from our coast now for six years, and it remains for you to decide whether the system is to be continued or abandoned.

Very respectfully,

EDMUND J. DAVIS, Governor.

Senator Franks moved to make Senate bill No. 218, "An act to establish and maintain a system of public free schools in the State of Texas," together with the veto message of the Governor, special order for Tuesday next at 9:30 o'clock. Lost by the following vote:

Yeas—Senators Baker, Gaines, Rawson and Saylor—4.

Nays—Senators Avinger, Ball, Dillard, Dohoney, Evans, Ford, Finlay, Flanagan, Fountain, Franks, Hall, Henry, King, Latimer, Randle, Ruby, Sayers, Shelley, Swift, Tracy, Word and Mr. President—22.

Senator Dohoney then moved to make the bill and veto message special order for to-morrow at 9:30 o'clock A. M. Carried by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dillard, Dohoney, Evans, Finlay, Hall, Henry, King, Latimer, Pyle, Randle, Sayers, Shelley, Swift, Word and Mr. President—19.

Nays—Senators Ford, Flanagan, Fountain, Franks, Gaines, Rawson, Ruby, Saylor and Tracy—9.

Senator Franks offered the following resolution, which was adopted:

Resolved, That two hundred copies of the report of the special joint committee for the investigation into the official conduct and accounts of the Superintendent of Public Instruction, and of his subordinates, be printed for the use of the Senate.

Senator Flanagan, chairman of the Committee on Internal Improvements, submitted the following reports:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Internal Improvements, to whom was referred House bill No. 489, a bill to be entitled "An act to aid in the construction of the Atlantic and Pacific Railroad," having duly and carefully examined the same, I am instructed to report it back and recommend that it do pass.

WEBSTER FLANAGAN, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Internal Improvements, to whom was referred Senate bill No. 324, to be entitled "An act to incorporate the Sabine and Santa Fé Central Railway Company, and to provide the aid of the State of Texas in constructing the same," having had the same under consideration, instruct me to report it back, with the recommendation that it do pass.

WEBSTER FLANAGAN, Chairman.

Senator Pyle moved a suspension of the rules to consider the report just read. Carried.

On further motion of Senator Pyle, the bill was made special order for Monday at 4:30 P. M., and one hundred copies ordered printed.

On motion of Senator Hall, the rules were suspended to take up House bill No. 754, "An act to incorporate the Board of Trustees of the Centreville Academic School."

The bill was read second time, and passed to a third reading; rules further suspended, read third time and passed by the following two-thirds vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dillard, Dohoney, Ford, Finlay, Flanagan, Fountain, Gaines, Hall, Henry, Latimer, Pyle, Randle, Sayers, Shelley, Swift and Tracy—20.

On motion of Senator Fountain, the rules were suspended to take up House bill No. 853, "An act supplementary to and amendatory of an act entitled an act to reincorporate the city of Corpus Christi."

The bill was read first time, and on motion of Senator Finlay referred to the Committee on State Affairs.

On motion of Senator Fountain, the rules were suspended to take up House bill No. 846, "An act authorizing the city of Galveston to issue her bonds to the amount of five hundred thousand dollars in aid of the bar and harbor of Galveston, and to provide a tax of one-fourth of one per centum for a sinking fund wherewith to pay the principal and interest of said bonds."

The bill was read second time and passed to third reading; rules further suspended, read third time and passed.

Senator Finlay in the chair.

On motion of Senator Dohoney, the rules were suspended to take up House bill No. 489, "An act to aid in the construction of the Atlantic and Pacific Railroad." The bill was read second time.

Senator Sayers offered the following amendment: Strike out section seven, and insert the following: "SEC. 7. That twenty miles of said railroad shall be completed and put in good running order and under successful operation within the limits of the State of Texas, within two years from the passage of this act, and thirty miles every year thereafter, or the grant of land hereinbefore made shall be null and void."

Senator Flanagan moved to lay the amendment on the table which was carried by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dillard, Dohoney, Evans, Flanagan, Fountain, Franks, Gaines, Hall, Henry, King, Latimer, Pyle, Rawson, Randle, Tracy, Word and Mr. President—21.

Nays—Senators Ford, Ruby, Saylor, Sayers and Shelley—5.

Senator Dohoney offered the following amendment,

which was adopted: Amend section two by adding this proviso: "*Provided*, that said railroad company shall construct and complete that part of its line within the State of Texas within five years after the passage of this act, or forfeit all rights herein granted."

Senator Sayers offered the following amendment: Amend section two by striking out of said section all between the word "act," in line eleven, and the word "thereof," in line seventeen.

Senator Flanagan moved to lay the amendment on the table, which carried by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dillard, Dohoney, Evans, Finlay, Flanagan, Fountain, Franks, Gaines, Hall, Henry, King, Latimer, Pyle, Rawson, Randle, Swift, Tracy, Word and Mr. President—23.

Nays—Senators Ford, Ruby, Saylor, Sayers and Shelley—5.

Senator Shelley offered the following amendment: Amend section two, line eleven: Strike out the words "said time," after the words "prior to," and insert "the issuance of the first certificates for land under the provisions of this act."

Senator Fountain moved the previous question. Carried.

The main question, viz., the adoption of the amendment offered by Senator Shelley, was then put, and the Senate refused to adopt the amendment.

On motion of Senator Flanagan the rules were further suspended, the bill read third time and passed by the following two-thirds vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dillard, Dohoney, Evans, Ford, Finlay, Flanagan, Fountain, Franks, Gaines, Hall, Henry, King, Latimer, Pyle, Rawson, Randle, Ruby, Saylor, Swift, Tracy, Word and Mr. Mr. President—26.

Nays—Senators Sayers and Shelley—2.

Senator Latimer, chairman of the Committee on Enrolled Bills, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: I, on behalf of your Committee on Enrolled Bills, would respectfully report that to-day at 10 o'clock A. M. I presented to his Excellency the Governor, for his approval and signature, the following Senate bills:

Senate bill No. 111, "An act to provide for supplying the records of Lampasas county, destroyed by fire."

Senate bill No. 179, "An act making appropriation for the payment of the expenses of the several contested election cases and special investigations before the present Legislature."

Senate bill No. 271, "An act for the relief of C. C. De Witt and other persons therein named."

H. R. LATIMER, Chairman.

On motion of Senator Rawson, the Senate adjourned to 9 o'clock A. M. to-morrow.

SENATE CHAMBER,
AUSTIN, TEXAS, May 10, 1873.

Senate met pursuant to adjournment. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Franks, the reading of the journal of yesterday was dispensed with.

Senator Henry, chairman of Judiciary Committee No. 1, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Judiciary No. 1, to whom was recommitted House bill No. 48, entitled "An act regulating juries," having carefully reconsidered the same, instruct me to report it back and recommend that the Senate recede from the amendments proposed by the committee, and adopted May 1, and that the bill do pass without amendment.

JOHN L. HENRY, Chairman.

Senator Flanagan, chairman of the Committee on Internal Improvements, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Internal Improvements, to whom was referred House bill No. 596, "An act entitled an act amendatory of and supplementary to an act entitled an act to organize and incorporate the East Line and Red River Railroad Company, approved March 22, 1871," have had the same under consideration, and instruct me to report it back and recommend that it do pass.

WEBSTER FLANAGAN, Chairman.

Senator King, chairman of the Committee on Engrossed Bills, submitted the following report: